

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	MM Docket No. 99-25
	)	
Creation of a Low	)	RM-9208
Power Radio Service	)	RM-9242
	)	

To: The Commission

**JOINT COMMENTS IN SUPPORT OF  
PETITION FOR EXTENSION OF TIME TO FILE REPLY COMMENTS**

Big City Radio, Inc., Clear Channel Communications, Inc., and Delmarva Broadcasting Company (collectively, the "Commenters") wholeheartedly support the petition filed by Greater Media, Inc. ("GMI") on August 11, 1999 (the "Petition"), that requests that the Commission extend the period for filing reply comments in the above-captioned proceeding either until November 1, 1999, or until 45 days after the formal issuance of a Notice of Proposed Rule Making relating to the implementation of terrestrial digital audio broadcasting ("DAB"). <sup>1/</sup>

The *Notice's* proposal to create as many as three new classes of LPFM stations will impose permanent and extensive burdens on the public's enjoyment of the FM radio spectrum. Its proposed authorization of hundreds or thousands of new FM radio stations that would not be subject to established interference safeguards risks

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<sup>1/</sup> Notice of Proposed Rule Making, Creation of a Low Power Radio Service, MM Docket No. 99-25 (released February 3, 1999) ("Notice").

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significant interference, which, in turn, would adversely affect the *entire* U.S. radio public. The sweeping extent and ramifications of the proposal thus demand a full and fair opportunity for public review. Similarly, because adoption of the proposal would involve a sea-change in the Commission precedent, the Commission, for legal and equitable reasons, should ensure that the public has a suitable period in which it may address the dangers and benefits of the proposal.

As GMI indicated in the Petition, LPFM comments filed in the week prior to the comment deadline included more than 7,000 pages of technical and legal analysis. The sheer volume of these recently-filed comments justifies an extension of the reply comment date. First, the extent of the comments made it impossible for the Commission to ensure general access to all of the comments until at least several days after the comments were due. For example, National Public Radio's submission, which includes one of the several technical studies filed on August 2, was not available from the Commission's ECFS database until at least August 10. Even now, it is not clear that all the comments filed in this proceeding are generally available from either the Commission's web page or its file room. Second, the volume of the comments also requires the public to have more than a few weeks to review -- and respond to -- them. A reply comment period intends to ensure that the public has an opportunity to analyze and respond to most or all of the initial comments in the proceeding. In this instance, no party can hope to read, never mind analyze, all the comments in this proceeding in the one-month span allotted, especially as many of the comments were not available until a week or more into that month.

Beyond the sheer mass of the comments recently filed, the Commission is obligated to enable parties a full and fair opportunity to analyze and assess, on a more than superficial level, the technical studies submitted near or at the comment deadline. Prior to the comment deadline, the Commission did not release a single technical study, based on real-world receivers and signals, that considered the extent of interference that would be caused by the creation of new FM radio stations outside the existing FM table of allotments. In fact, the only FCC technical report related to this proceeding was not filed until August 5, 1999, or three days after the comment period closed. <sup>2/</sup> Accordingly, parties wishing to comment on actual technical analyses related to the LPFM proposal could not do so in the comment round.

Instead, parties have only reply comments in which to address the Commission's *Interim Report* and the far more comprehensive technical studies of a number of private parties -- including those of the National Association of Broadcasters, National Public Radio, Inc., the Corporation of Public Broadcasting, the Consumer Electronics Manufacturers Association, and local broadcaster associations. The private studies include hundreds of pages of detailed analyses and, in general, demonstrate that radio listeners will experience additional disruption or objectionable interference if LPFM is adopted. Because these private studies offer the first chance for many commenters to compare their own knowledge and experience to any comprehensive technical analysis of the relevant issues, and because the studies uniformly indicate that the LPFM proposal would create objectionable interference, each requires careful

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<sup>2/</sup> Office of Engineering and Technology, *Interim Report, Second and Third Adjacent Channel Interference Study of FM Broadcast Receivers* (filed August 5, 1999) (the "*Interim Report*").

review by other parties. As GMI underscores in the Petition, such a review is likely to take 60 days or more, and certainly will take more than the few weeks currently authorized. 3/

Moreover, the Commission has several reasons, beyond the mass and nature of comments filed, to extend the reply deadline. First, as GMI explained, the Commission already has recognized that the forthcoming DAB rule making necessarily relates to LPFM. Unquestionably, the record in this proceeding would be well-served if parties had an opportunity at least to review the Commission's DAB proposals before filing their final LPFM comments. 4/ The proposed extension would enable the Commission to develop and issue its DAB rule making proposal in a timely manner as well as ensure that all parties -- including both critics and proponents of LPFM -- would have a sense of the Commission's thinking as to DAB before the record closes in this docket. 5/

Second, additional time would enable the Commission to make publicly available a more complete and rigorous technical assessment of LPFM by the Staff.

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3/ Cf. *Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems*, 1998 FCC LEXIS 6571 (released December 30, 1998) (extending reply comment deadline in light of extensive technical attachments to comments and the holiday season).

4/ Cf. *Imposing Syndicated Exclusivity Requirements on Satellite Delivery of Television Broadcast Signals to Home Satellite Earth Station Receivers*, 4 FCC Rcd 5478 (July 3, 1989) (extending comment and reply comment deadlines to better account for the interplay of two contemporaneous proposals).

5/ Disclosure of the Commission's initial proposal, for instance, might indicate to LPFM proponents when they will be expected to outlay significant funds to transition to digital transmission, or how the Commission intends to guide both a radio DAB transition and monitor any new LPFM stations.

The Commission's sole publicly released technical study in this docket -- the *Interim Report* -- is replete with suggestions that its analysis was hurried or preliminary, 6/ despite the Commission's prior suggestion that parties should have enough time prior to August 2, 1999, to prepare actual technical studies relating to LPFM. 7/ In fact, the *Interim Report* did not even attempt to assess the impact of LPFM on the most generally available class of radio receivers, even though that class appears likely to be the most affected by any elimination of established interference safeguards. Such gaps -- as well as the limited nature of the tests actually conducted -- in the *Interim Report* indicate that the Commission should allow the Staff to complete its work in a more thorough fashion, and then should make any study it intends to consider in assessing LPFM radio available for public review and comment. Accordingly, the entire proceeding would benefit from an extension of the period for filing reply comments until after the Commission has issued a more rigorous LPFM technical report that is not unfairly limited by artificial time constraints.

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6/ For example, the text of the *Report* noted that its data was limited in part because of a need "to develop some information quickly," and that the *Report* required additional "follow-on work." See *Interim Report* at 3. Elsewhere, the *Interim Report* underscored the prejudicial substantive effect such time limits imposed on the project: "Because of the need to get some objective data into the record as quickly as possible, fairly narrow limits were imposed on the scope of the initial study effort." *Id.* at 4. As noted above, such limits appear to have resulted in a far too optimistic a view of LPFM's disruptive effects.

7/ See, e.g., *Order, Creation of Low Power Radio Service*, MM Docket No. 99-25, at 2 (rel. May 20, 1999).

## CONCLUSION

For all the foregoing reasons, and those addressed in the Petition itself, the Commenters urge the Commission to extend the period for filing reply comments in this proceeding.

Respectfully submitted,

**BIG CITY RADIO, INC.**

By: 

Michael Kakoyiannis  
President

**CLEAR CHANNEL COMMUNICATIONS, INC.**

By: 

Kenneth Wyker  
Senior Vice President

**DELMARVA BROADCASTING  
COMPANY**

By: 

Julian H. Booker  
President

August 17, 1999

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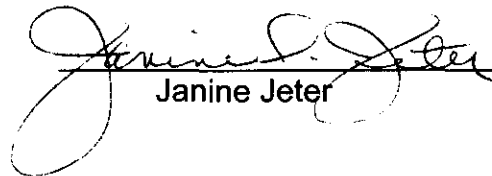
## CERTIFICATE OF SERVICE

I, Janine Jeter, hereby certify that the foregoing Comments were, on  
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